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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/457,209	12/08/1999	BRADLEY CAIN	2204/186	7418

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BROMBERG & SUNSTEIN LLP
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EXAMINER

ZIA, SYED

ART UNIT	PAPER NUMBER
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2155

DATE MAILED: 01/13/2003

7

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/457,209

Applicant(s)

CAIN, BRADLEY

Examiner

Syed Zia

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 30 October 2002.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-24 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-24 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) _____
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____

DETAILED ACTION

Response to Amendment

1. Original application contained Claims 1-24. Applicant amended Claims 1.

The amendment filed on October 30, 2002 (Paper No. 6), and argument filed on October 30, 2002 (Paper No. 6) have been entered and made of record. Therefore, presently pending Claims are 1-24.

Response to Arguments

1. Applicant's arguments filed October 30, 2002 (Paper No. 6) have been fully considered but they are not persuasive because of following reasons.

Regarding Claim 1, 8, 15, and 22 applicants argued that admitted prior art (APA) does not disclose, “*method and logic for sending keep-alive messages by a node to a neighbor*”, and “*determining a frequency for sending keep-alive messages to the neighbor based upon reliability factor*” in a communication system where network node receive keep-alive messages from its neighbors.

This is not found persuasive. APA clearly teaches and describes a system and method that relates to node and link status monitoring for distributed computer network and implement distributing network monitoring among each of nodes such that monitor software in each node is responsible for providing status information about node and its communications links.

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The method involves dispatching a circulating status table (CST) at predetermined monitoring intervals from a node designated as a dispatching node to other nodes that are on-line. The CST is circulated to each on-line node and then returned to the dispatching node. At each node that receives the CST, selected status information about such node is written into the CST and selected status information is read about the other nodes (Fig.2, col.9 line 30 to col.10 line 56).

As a result, APA does implement a system and method that involves communication system where each network node receives keep-alive messages from its neighbors based upon a reliability factor for communicating with a neighbor.

Applicants clearly have failed to explicitly identify specific claim limitations, which would define a patentable distinction over prior arts.

The examiner is not trying to teach the invention but is merely trying to teach the claim language in its broadest and reasonable meaning. The examiner will not interpret to read narrowly the claim language to read exactly from the specification, but will interpret the claim language in the broadest reasonable interpretation in view of the specification. Therefore, the examiner asserts that APA does teach or suggest the subject matter broadly recited in independent Claims 1, 8, 15, and 22. Dependent Claims 2-7, 9-14, 16-21, and 23-24 are also rejected at least by virtue of their dependency on independent claims and by other reason set forth in previous office action (Paper No.4). Accordingly, rejections for Claims 1-24 are respectfully maintained.

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claims 1-24 are rejected under 35 U.S.C. 102(b) as being anticipated by Armstrong et al. (U. S. Patent 5,542,047).

3. Regarding claims 1, 8, 15 and 22 Armstrong teaches and describes a system and method that relates generally to computer network systems, and more particularly relates to a distributed network monitoring software system for monitoring the status of network nodes and links and determining the condition of communications links using an adaptive procedure to identify intermittent links, comprising:

- determining a reliability factor for communicating with a neighbor; and determining a frequency for sending keep-alive messages to the neighbor based upon the reliability factor (col. 2 line 63 to col. 3 line 48);

- a plurality of interconnected devices including a node and a neighbor in communication over a communication link, wherein the node is operably coupled to send keep-alive messages to the neighbor, and wherein the node is operably coupled to determine a frequency for sending

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keep-alive messages to the neighbor based upon a reliability factor for communicating with the neighbor over the communication link (Fig. 1 and col. 2 line 9 to col. 3 line 48).

4. Claims 2-6, 9-13, 16-20 and 23-24 are rejected applied as above in rejecting claims 1, 8, 15 and 22. Furthermore, Armstrong teaches and describes a system and method for managing of network components, and in particular, to a network management method and system using active monitoring and status reporting, comprising:

- determining a reliability for the neighbor; and determining the reliability factor based upon the reliability for the neighbor (col. 9 line 31 to col. 10 line 27 and col. 11 line 12 to line 34);

- determining a reliability for a communication link to the neighbor; and determining the reliability factor based upon the reliability for the communication link to the neighbor (col. 10 line 29 to line 50 and col. 11 line 12 to line 34);

- determining a reliability for a communication link to the neighbor; assigning a relative weight to each of the reliability for the neighbor and the reliability for the communication link to the neighbor; and determining the reliability factor to be a weighted average of the reliability for the neighbor and the reliability for the communication link to the neighbor (col. 11 line 12 to line 34 and col. 2 line 63 to col. 3 line 48);

- setting the frequency for sending keep-alive messages to the neighbor in inverse proportion to the reliability factor; and updating the reliability factor; and adjusting the frequency for sending keep-alive messages to the neighbor based upon the updated reliability factor (col. 13 line 12 to line 35 and col. 14 line 2 to line 19);

- the node is operably coupled to determine the reliability factor based upon a reliability for the neighbor and a reliability for the communication link; and the node is operably coupled to set the frequency for sending keep-alive messages to the neighbor in inverse proportion to the reliability factor (Fig. 3 and col. 9 line 31 to col. 10 line 27).

5. Claims 7, 14, and 21 are rejected applied as above in rejecting claims 6, 13, and 20.

Furthermore, Armstrong teaches and describes a polling mechanism which adjusted dynamically based on the intermittent condition of nodes and communication links, comprising:

- reducing the frequency for sending keep-alive messages to the neighbor, if the updated reliability factor represents a reliability improvement for communicating with the neighbor; and increasing the frequency for sending keep-alive messages to the neighbor, if the updated reliability factor represents a reliability degradation for communicating with the neighbor (col. 14 line 2 to line 19).

Conclusion

2. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after

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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

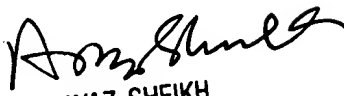
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Syed Zia whose telephone number is 703-305-3881. The examiner can normally be reached on Monday - Friday 9:00 AM to 5:00 PM EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 703-305-9648. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-746-7240.

SZ

January 10, 2003


AYAZ SHEIKH
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2100